

Senate Bill 1072 (Burton)
Late contributions: reporting
Urgency statute

Version: As introduced, March 13, 2003
Status: In Assembly, awaiting assignment to
the Elections Committee

Summary

Subjects state and county political party committees to the late contributions disclosure requirements of the Political Reform Act (the “Act”)¹ by amending the definition of “late contribution” to include contributions made to or received by political party committees.

Background

This is one of two bills that attempt to close a reporting loophole allowing large contributions to be made through political parties during the late contribution period and go unreported until after the election. This loophole was the subject of recent press stories reporting that an insurance company made \$900,000 in contributions to state and county political party committees in the month prior to the 2002 state general election. Under the disclosure rules, these contributions went unreported until the party committees and the insurance company filed their second semi-annual campaign reports in January of 2003. Those reports also disclosed that the party committees subsequently gave substantial amounts to candidates in heavily contested races in the closing days of the election.

Political parties are categorized as “general-purpose” committees under the Act for purposes of when and where their campaign reports must be filed. (§82027.5) Currently, contributions to general-purpose committees are not subject to late reporting.

This bill differs from the other measure, AB 190 (Parra), in that AB 190 is limited to elections in which a state candidate appears on the ballot, while the this bill applies to both state *and local* elections.

Analysis

Candidates and committees are required to disclose “late contributions” within 24 hours.² (§84203.) A late contribution is a contribution of \$1,000 or more received by or made to a candidate or primarily formed ballot measure committee during the last 16 days prior to the candidate’s or measure’s election. This is the period following the filing of the second (and last) pre-election campaign statement, which covers the period ending 17 days before the election. (§§ 84200.5-84200.8.)

¹ Government Code §§81000-91016. References are to the Government Code unless otherwise noted.

² For late non-monetary contributions, there is a 48-hour filing deadline. See §84203.3.

All committees are required to disclose late contributions *made*. Only candidates and ballot measure committees involved in the election are required to disclose late contributions *received*. The purpose of §84203 is to provide information to the public about contributions received by or made to candidates and ballot measure committees during the final days before an election, after all of the regular campaign reports have been filed.

General-purpose committees, as defined in §82027.5, including political party committees, are required to file a late contribution report within 24 hours if they make a contribution of \$1,000 or more during the late contribution period to a candidate or ballot measure committee involved in an election. General-purpose committees currently are not required to disclose contributions received during the late contribution period until the next semi-annual campaign statement, due after the election. (Section 84200.)

Staff concerns. SB 1072 would require 24-hour reporting of a contribution of \$1,000 or more made to or received by a political party committee if the contribution is made or received “after the closing date of the last campaign statement required to be filed before an election.” This new language raises the following issues:

- ◆ Original donors may still go unreported. General-purpose committees are required to file pre-election campaign statements (disclosing the sources of their contributions) *only* if they make contributions or independent expenditures of \$500 or more during the period covered by the statement. (See §84200.5(e).) A county central committee that makes no contributions or independent expenditures during the first or second pre-election periods (July 1 through September 30 and October 1 through October 16, respectively) prior to the November 2004 general election will not file a report until the semi-annual filing is due on January 31, 2005.
- ◆ Overbroad, onerous on county party committees and major donors. Under this bill, any state or local election will trigger a reporting requirement for any county central committee that receives or makes a contribution of \$1,000 or more in the 16 days prior to that election. This would mean that the Sacramento County Republican Central Committee and any major donors who contribute to it will have to report contributions it receives during the late period prior to a recall election in the City of Chula Vista. It may not be possible for county central committees and major donors to track all local elections.
- ◆ Alternative approach. Commission staff has drafted proposed language to make political party committees state general-purpose committees and to provide electronic disclosure of those committees’ donors via §85309 in lieu of amending the late contribution definition. This approach would avoid the above concerns by 1) requiring timely disclosure contributions made to a party committee; and 2) triggering the new reporting to state elections. The report would not be required in paper format, but would be required to be posted on the Secretary of State’s website.

What others say. To date, only the Secretary of State and California Common Cause have weighed in on these measures. The Secretary of State supports the bills, and California Common Cause has a position of support-if-amended to accomplish the following:

- ◆ Should apply to all general purpose committees. Common Cause believes the bills should apply more broadly, to all general-purpose committees rather than just political party committees. Commission staff believes this extension would have little effect given the lack of incentive to contribute through other general-purpose committees (essentially, “PACs”) due to the \$5,000 limit under §85303. However, if the Commission believes that a concern for transparency justifies requiring all committees to report donors in a more timely fashion, it may wish to champion this extension as well.

Other considerations. Staff concerns over local application of this bill aside, the Commission may wish to consider how any new reporting scheme would affect local jurisdictions with their own campaign reform ordinances. The City of Los Angeles, for example, has in the past sought disclosure of state central committee contributions and the sources of those moneys in closer proximity to its elections. This legislation may be an opportunity to elicit more timely disclosure of money flowing in to and out of political party committees in a way that would complement local reporting ordinances.

Recommendation: Support, if amended.

In seeking to advance timely disclosure of unlimited political party contributions to party candidates, and of the source of the donors of those party contributions, SB 1072 furthers the stated purposes of the Act and of Proposition 34.³ Staff therefore recommends the Commission support this legislation if it is amended to address the concerns raised above. In particular, staff recommends the bill be drafted to amend §85309, as provided in the attached draft, rather than amending the definition of late contribution.

³ The first enumerated purpose of the Act identified at § 81002(a) is: “Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.” Proposition 34 similarly provides at uncodified Section 1(b)(5) that one of that measure’s purposes is: “To increase public information regarding campaign contributions and expenditures.” Subdivision (b)(7) of the same uncodified section identifies another purpose: “To strengthen of the role of political parties in financing political campaigns by means of reasonable limits on contributions to political party committees and by limiting restrictions on contributions to, and expenditures on behalf of, party candidates, to a full, complete and timely disclosure to the public.”